

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

AMIN MOHAMMAD,

Petitioner,

v.

Civil Action No. 2:10cv22

JOEL ZIEGLER, Warden,

Respondent.

ORDER

On July 21, 2010, Magistrate Judge David J. Joel filed his Report and Recommendation, wherein the parties were directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within fourteen (14) days after being served with a copy of the Report and Recommendation. No objections to the Magistrate Judge's Report and Recommendation have been filed. The Court notes that on August 11, 2010, the Report and Recommendation was returned as undeliverable. The Court further notes that the petitioner has an ongoing obligation to keep the Court apprised of his current mailing address. Accordingly, the Court will proceed with consideration of the Report and Recommendation as being without objection, thus reviewing for clear error.¹

Upon examination of the report from the Magistrate Judge, it appears to the Court that the issues raised by the Petitioner's Application for Habeas Corpus, filed pursuant to 28 U.S.C. § 2241, and the Respondent's Motion to Dismiss or for Summary Judgment and supplements, were thoroughly considered by Magistrate Judge Joel in his Report and

¹The failure of a party to object to a Report and Recommendation waives the party's right to appeal from a judgment of this Court based thereon and, additionally, relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See ***Wells v. Shriners Hospital***, 109 F.3d 198, 199-200 (4th Cir. 1997); ***Thomas v. Arn***, 474 U.S. 140, 148-153 (1985).

Recommendation. Moreover, the Court, upon a review for clear error, is of the opinion that the Report and Recommendation of July 21, 2010 accurately reflects the law applicable to the facts and circumstances before the Court in this action. Therefore, it is

ORDERED that Magistrate Judge Joel's Report and Recommendation of July 21, 2010 (Doc. 39) be, and the same hereby is, accepted and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

ORDERED that the Report and Recommendation of April 23, 2010 (Doc. 19) shall be, and the same hereby is, **VACATED**. It is further

ORDERED that Respondent's Motion to Dismiss or in the Alternative for Summary Judgment (Doc. 9), based upon the request for dismissal found in his Second Supplemental Response to Memorandum in Support of Motion to Dismiss (Doc. 37), shall be, and the same hereby is, **GRANTED**. It is further

ORDERED that the petitioner's § 2241 petition shall be, and the same hereby is, **DENIED** and **DISMISSED WITH PREJUDICE**. It is further

ORDERED that the Clerk shall enter judgment for the respondent. It is further

ORDERED that Petitioner's Motion to Expedite (Doc. 33) and Motion for Preliminary Injunction (Doc. 34) shall be, and the same hereby are, **DENIED** as moot. It is further

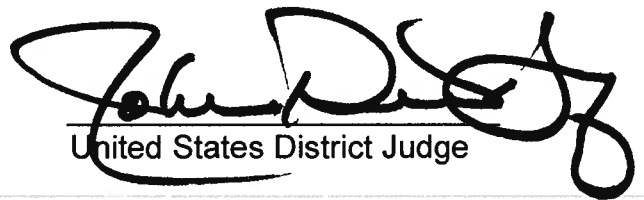
ORDERED that the above-styled action shall be **STRICKEN** from the docket of this Court. It is further

ORDERED that, if a party should desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of

Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, the petitioner may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed *in forma pauperis* from the United States Court of Appeals for the Fourth Circuit.

The Clerk of Court is directed to transmit a copy of this Order to all parties appearing herein.

DATED: August 25, 2010



United States District Judge